

Attorney Docket No.:2870/319(99.28)



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Painter et al.

Serial No.: 09/622,510

Group Art Unit: 1616

Filed: October 19, 2000

Examiner: K. George

For: GEL-BASED COSMETIC COMPOSITION

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RESPONSE UNDER 37 CFR 1.116

Assistant Commissioner of Patents

Washington, D.C. 20231

Sir:

In response to the office action dated November 24, 2001, entry of the following remarks is respectfully requested. These remarks raise no new issues, and are believed to place the application in condition for allowance or in better condition for appeal should the final rejection be maintained.

REMARKS

I. Rejection under 35 USC §103

Claims 1-26 remain rejected under 35 USC §103 as being unpatentable over Igo-Kemenes et al. in view of Iosilevich et al "for the reasons stated in the previous office action". In response to the arguments submitted in Applicants' previous reply, the Examiner states:

Applicants argue that the cosmetic composition in Igo-Kemenes is a stable composition in the absence of a porous support. It is the position of the Examiner that the composition of the prior art can be unstable as it teaches the same composition as claimed. The composition is in the form of a water-in-oil formulation, contains an oil phase, a gellant, a pigment, and substantially no waxes or suspending agents(0.1-1.5%). Therefore, the claimed invention is rendered obvious.

Applicants respectfully disagree with the Examiner's reading and interpretation of both Igo-Kemenes and the present claims. The first issue is the Examiner's statement as to what the present claims